

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
GOOLDEN, SARAH, : Docket #1:19-cv-06257-
 : ALC-DCF
 :
 Plaintiff, :
 :
 - against - :
 :
 WARDAK, HAMED, : New York, New York
 : March 15, 2022
 :
 Defendant. :
 : TELEPHONE CONFERENCE
 ----- :
 :

PROCEEDINGS BEFORE
THE HONORABLE DEBRA C. FREEMAN,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: C.A. GOLDBERG PLLC
BY: AURORE CIRCLE DECARLO, ESQ.
16 Court Street, Suite 2500
Brooklyn, NY 11241

For Defendant: LEX LUMINA PLLC
BY: RHETT OWEN MILLSAPS, II, ESQ.
745 Fifth Ave., Ste. 500
New York, NY 10151

CHAUDHRY LAW PLLC
BY: PRIYA CHAUDHRY, ESQ.
45 West 29th Street, Suite 303
New York, NY 10001

Transcription Service: Carole Ludwig, *Transcription Services*
155 East Fourth Street #3C
New York, New York 10009
Phone: (212) 420-0771
Email: Transcription420@aol.com

Proceedings conducted telephonically and recorded by
electronic sound recording;
Transcript produced by transcription service.

INDEX

E X A M I N A T I O N S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>
----------------	---------------	--------------	-----------------------	----------------------

None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
---------------------------	--------------------	-----------	-----------	----------------------

None

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

12

of his own prior counsel for any documents that they may have in their possession that preserved earlier records, and wouldn't they have to turn them over to Mr. Wardak if he asks for them?

MS. DECARLO: Absolutely. And I believe Mr. Wardak's counsel, based on letters he produced from December, made efforts to acquire these records. But from what I understand --

THE COURT: Well, what makes you think there are such records?

MS. DECARLO: Because Mr. Wardak represented to us that he had turned his phone over to his prior counsel. So then --

THE COURT: I'm sorry, the very phone that is supposedly lost was supposedly in the possession of counsel?

MS. DECARLO: That's correct.

THE COURT: Of prior counsel?

MS. DECARLO: Well, it was at one point, I believe, to extract data from the phone and then was returned to Mr. Wardak, who then subsequently lost it. And obviously, I'll let Mr. Wardak's counsel specify, you know, the exact timeline and what happened. But that's our understanding, anyway. So it's our understanding that at

1

PROCEEDINGS

13

2 some point prior to his losing the phone, Mr. Wardak turned
3 it over to his prior counsel. And, again, just to remind
4 the Court, the parties have been involved on at least three
5 other lawsuits in different venues. So there's been a
6 history of the exchange of discovery on other actions. And
7 the phone I believe was turned over to produce discovery in
8 another lawsuit that the parties were involved in. And
9 prior counsel has been, it seems, unresponsive to
10 Mr. Millsaps' inquiries about --

11 THE COURT: Wait a second. Was discovery produced
12 in that other case, discovery from the phone?

13 MS. DECARLO: I can't say. I think some of it
14 was. I can't say for sure what was produced or what wasn't
15 from the phone.

16 THE COURT: I'm sorry, who was in that other case?
17 That was also Ms. Goolden's in the other case?

18 MS. DECARLO: That was a case in Florida, yes.

19 THE COURT: Okay, so Ms. Goolden is a party --

20 MS. DECARLO: And it was a federal court
21 proceeding.

22 THE COURT: All right, Ms. Goolden was a party to
23 that action and requested discovery in that action. And
24 why would she not know if material was produced from that
25 phone in that action?

1

PROCEEDINGS

14

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MS. DECARLO: We -- she can't -- first of all, it's not clear to us that any discovery was produced in the federal case in Florida. There was also a family court proceeding in New York Family Court, a family offense petition. And I believe some discovery was produced in that context. We don't know what was produced from the phone or what wasn't.

THE COURT: Well, how would you not know that?

MS. DECARLO: We don't -- because we -- well, we weren't -- first of all, we weren't attorneys on those cases.

THE COURT: No, but your client was a party. So if discovery was produced to her, why wouldn't she know if any early phone records were produced to her?

MS. DECARLO: Well, we certainly have some screenshots that were produced, but we don't have any way of knowing if that was the entirety of it or what, you know -- and the requests in those cases may have been different, narrower in scope -- I don't know -- from the requests that we've made here. But, I mean, the point is is we just want to know whether the prior counsel extracted data from the phone or not; and if they did, whether all of that data was -- is still in their possession or custody and can be produced. We just simply haven't --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

15

THE COURT: Let me hear -- let me hear from Mr. Wardak's counsel on this.

MR. MILLSAPS: Your Honor, we did -- we have followed up with all of Mr. Wardak's prior counsel. And Mr. Wardak, as I explained to Ms. DeCarlo, believed that his prior counsel had taken his phone sometime in 2019 and extracted the ESI from it. You know, his prior counsel was not very cooperative with us. We ended up having to send them very strong demand letters for this information. And they all sent over what they had in their files, and none of them had the ESI that plaintiff is seeking here and that frankly we would love to recover ourselves. It just doesn't exist.

THE COURT: And what gives you the confidence that they've turned over everything they had?

MR. MILLSAPS: Just based on their representations and their -- you know, we sent them quite strong demand letters, you know, essentially pointing out their own liability here if they failed to turn over what they have. I've spoken with each of them, and I've received, you know, what they have represented is their entire file. They've also explained to me -- each of them has explained to me that they never extracted the ESI from Mr. Wardak's phone.

THE COURT: So Mr. Wardak's recollection of this

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of Goolden v. Wardak, Docket #19-cv-06257-ALC-DCF, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature *Carole Ludwig*

Carole Ludwig

Date: March 24, 2022